

SECOND REGULAR SESSION

SENATE BILL NO. 933

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL.

Read 1st time January 15, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3800S.011

AN ACT

To amend chapter 324, RSMo, by adding thereto six new sections relating to licensing of amusement machine operators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto six new sections, to be known as sections 324.1005, 324.1006, 324.1007, 324.1011, 324.1014 and 324.1017, to read as follows:

324.1005. 1. As used in sections 324.1005 to 324.1017, the following terms mean:

(1) "Amusement machine", any machine, device or apparatus which provides amusement, diversion or entertainment, which is coin-operated and operational results of which depend in whole or in part upon the skill of the player, regardless of whether an award is afforded to a successful player. Such phrase includes any machine, device or apparatus not otherwise excluded by this section and also includes, but is not limited to, such games as radio rifles, miniature football, golf, baseball, hockey, basketball, bumper pool, tennis, shooting galleries, pool tables, shuffleboard, pinball tables, cranes, video games, claw machines, bowling machines, countertop machines, novelty arcade machines and other miniature games, regardless of whether a score shows;

(2) "Amusement machine operator", a person engaged in the business of owning, buying, selling, renting, leasing, trading, or furnishing amusement machines to another; except that the phrase shall exclude an individual who owns and operates an amusement machine for personal use and amusement in such individual's private residence. All amusement machines owned and operated by a business or

organization and located on the premises of such business or organization as of August 28, 2002, and used for the amusement of the customers or members of that business or organization, shall be exempt from the requirements and rights of amusement machine operators set forth in sections 324.1005 to 324.1017. Any additional machines which such business or organization acquires or begins to operate after August 28, 2002, shall be subject to the provisions of sections 324.1005 to 324.1017 and the business or organization shall thereafter be required to obtain a license pursuant to sections 324.1005 to 324.1017;

(3) "Coin-operated machine", any amusement machine which is operated by placing through a slot or any kind of opening or container any coin, slug, token, paper money or other object or article necessary to be inserted before the machine operates or functions. The term does not include any machine or device which is classified by the United States government as requiring a federal gaming stamp pursuant to applicable provisions of the Internal Revenue Code;

(4) "Director", the director of the division of professional registration of the department of economic development;

(5) "Person", any individual, firm, association, company, partnership or corporation;

(6) "Redemption machine", an amusement machine from which a successful player receives a redeemable award. An immediate right of replay shall not be considered a redeemable award. No redemption machine shall act as a lottery or gift enterprise, or simulate a slot machine or any gambling game of skill or video representations which are specifically enumerated in subdivision (12) of subsection 1 of section 313.800, RSMo, as of August 28, 1999.

2. No person shall act as an amusement machine operator without first obtaining an amusement machine operator license from the director. Such license shall be renewed biennially on or before July first of each year. The biennial fee for a license to operate amusement machines shall be set by the director at an amount necessary to cover administration costs of the licensing program established in sections 324.1005 to 324.1017, but shall not exceed one thousand five hundred dollars. Any person making an initial application for a license after January first of the year shall be charged a prorated amount of such license. The director shall set the fee for a license to operate amusement machines exclusively at carnivals, circuses, local or county fairs or the state fair for each month in which such amusement machines are operating in this state. A licensed amusement machine operator shall not transfer his or her license number or allow another person to use his or her license number.

3. A person may obtain an amusement machine operator license if such person has the following qualifications:

(1) Such person, if an individual, is at least twenty-one years of age, or such person, if a business, is in part owned by at least one individual who is at least twenty-one years of age;

(2) Such person, if an individual, is currently a resident of this state and has been such continuously for at least one year before the date of such person's application or, if such person is a business, is in part owned by at least one individual who is currently a resident of this state, has been such continuously for at least one year before the business's application and if such person shall be the party accountable for the collection and reporting of all of the business's state taxes, fees and compliance. The residency requirement shall not apply to a person whose operation of amusement machines is limited exclusively to carnivals, circuses, local or county fairs or the state fair and shall not apply to a person who was doing business in Missouri and paying Missouri sales tax on revenues from amusement machines on or before December 31, 2002; and

(3) Such person shall show a Missouri sales tax number and proof that Missouri sales tax has been paid on all business dealings previously undertaken in this state.

4. Any person who acts as an amusement machine operator without first obtaining a license from the director may be assessed a penalty of up to one hundred dollars for each amusement machine in such person's possession and initiate or authorize the attorney general to initiate legal proceedings.

324.1006. An award under sections 324.1005 to 324.1017 is a non-cash prize, toy, item of merchandise, novelty or a representation of value redeemable for those items. The value of the award for a single play shall not exceed the greater of the cost for a single play of the amusement machine or the wholesale value of five dollars. The award shall be located and redeemed solely on the premises where the redemption machine is played. The term shall exclude cash, gift certificates, intoxicating beer and liquor, non-intoxicating beer and tobacco products.

324.1007. All licensed amusement machine operators shall identify each of their amusement machines with a decal. Such decal shall be provided by the operator and shall contain the license number of the operator and any other information the director may require. Each amusement machine operator shall place such decal in a prominent location on each machine owned or operated by him or her.

324.1011. 1. The director is authorized to:

(1) Promulgate rules necessary to implement sections 324.1005 to 324.1017;

(2) Issue warnings, probations, suspensions and fines to an amusement machine

operator who violates sections 324.1005 to 324.1017;

(3) Prescribe all forms, applications, and licenses;

(4) Examine those books and records of persons applying for an amusement machine operator license or of persons licensed as amusement machine operators that directly pertain to amusement machine activities, including state sales tax records; and may only investigate an operator of amusement machines after receiving a written complaint or request to take action from a Missouri citizen or law enforcement agency.

2. Any licensed party aggrieved by any action of the director shall have the right to appeal to the administrative hearing commission from any finding, order or decision of the director. Any person or entity who is a party to such a dispute shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after the decision is delivered, whichever is earlier. The decision of the director shall contain a notice of the right of appeal in substantially the following language:

"If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536, RSMo. Decisions of the administrative hearing commission pursuant to this section shall be binding subject to appeal by either party."

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

324.1014. All fees provided for in sections 324.1005 to 324.1017 shall be collected by the director, who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Amusement Machine Operator License Fund" which is hereby created. The director shall administer the fund. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1005 to

324.1017. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, no appropriation made to the fund shall lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

324.1017. Sections 324.1005 to 324.1017 shall not become effective until expenditures are specifically appropriated or personnel are specifically authorized for the purpose of performing the duties specified therein and the initial rules filed, if appropriate, have become effective. The director shall have the authority to borrow funds from any agency within the division to commence operations upon appropriation for such purpose. This authority shall cease at such time that a sufficient fund has been established by the agency to fund its operations and repay the amount borrowed.

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